REMARKS/ARGUMENTS

Claims 1-48 are pending, of which claims 22-37 and 39-47 are withdrawn. Claims 1-3 and 38 are amended and new claim 48 is added.

Claim 1 and its dependent claims are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In view of the amendments to claims 1, 2 and 3, it is respectfully requested that the above rejected be withdrawn.

Claims 1-8, 10-21, and 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Burke (U.S. 2003/0083930). Applicant submits that all of the claims currently under examination in this application are patentably distinguishable over the cited references for the following reasons, and reconsideration and allowance of this application are respectfully requested.

To establish anticipation the Examiner must show that the cited reference teaches each of the elements of the claim. Amended independent claims 1 and 38 include, among other limitations, "storing the enrollment information of the plurality of aggregators, the participant, and the plurality of merchants in a database, wherein no merchant is yet selected by the participant," "providing the participant identification code to any of the plurality of merchants, when the participant initiates a purchase transaction with said any of the plurality of merchants," "receiving . . . funds corresponding to a portion of the amount for the purchase transaction by the processor," and "sending a portion of the funds received by the processor to the aggregator." Burk does not teach or suggest the above limitations.

First, with respect to the limitation of "receiving . . . funds corresponding to a portion of the amount for the purchase transaction by the processor," Burke does not teach or suggest such limitation. The Examiner, citing paragraph [0005], states that "the processor is a central component of the system connecting the other components, hence the processor is always integral to every transaction thereby the processor inherently collect/computes a portion of each transaction." (Office action, page 5, last paragraph). Applicant respectfully disagrees. Burke, in the cited text, merely states that the "clearinghouse component connects the other three components via a variety of entry terminals." (Paragraph [0005], last lime, underlining added.).

This does not make the above claim limitation inherent. In fact, Burke teaches away from the above claim limitation by emphasizing that "the central clearinghouse component reports all transaction data to the merchant component that in turn sends a rebate check to the nonprofit component." (Paragraph [0007], underlining added.). See also, claim 1: "having the central clearinghouse report all transaction to the merchant for having the merchant send a rebate to the nonprofit organization." (Underlining added). Burke is also very clear about "the components operate individually while maintaining a high degree of intrasystemic harmony." (Paragraph [0068], underlining added.). Applicant respectfully submits that it is not appropriate to deem "receiving . . . funds corresponding to a portion of the amount for the purchase transaction by the clearinghouse component, when Burke specifically teaches away from that limitation by emphasizing that "the central clearinghouse report all transaction to the merchant for having the merchant send a rebate to the nonprofit organization."

Additionally, the Examiner interprets paragraph [0007], lines 5-6 of Burke, which teaches "the clearinghouse component reports all transaction data" as "receiving . . . funds corresponding to a portion of the amount for the purchase transaction." (Office action, page 14, third paragraph.). Applicant respectfully disagrees. One skilled in the art would readily realize that "reporting all transaction data" is not the same as "receiving funds [that is money or credit rebate]."

Furthermore, the Examiner cites to *MPEP 2144.04(b) - B. Duplication of Parts*; and the *In re Harza* case to allege that "a designer preference, which does not receive any patentable weight." (Office action, page 14, third paragraph.). Applicant respectfully disagrees. At the outset, MPEP 2144.04(b), which is by the way for obviousness rejections and not anticipations clearly states that "if the facts in a prior legal decision are sufficiently similar to those in an application under examination, the examiner may use the rationale used by the court." (Emphasis added.). Here, the facts of the present application are NOT sufficiently similar to those in *In re Harza* case. The court in *In re Harza* affirmed Board decision of affirming examiner's obviousness rejection of claims because:

> The only distinction to be found is in the recitation in claim 1 of a plurality of ribs on each side of the web whereas Gardner shows only a single rib on each side of the web. [1] It is well settled that the mere duplication of parts has no patentable significance unless a new and unexpected result is produced, and we are of the opinion that such is not the case here. The other limitations defined by claim 1 are manifest in Gardner. The webs as recited in the claim and as shown in the reference are similar, and the rib of Gardner, besides being "coextensive in length" with the web, has a neck and "an enlargement at the end * * * [of the neck] remote from * * * [the] web."
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> (Id. at 671).

That is, in *In re Harza* case, every limitation in the prior art and the claim was the same, except the number of (same) ribs. In contrast, here the claimed invention requires "receiving . . . funds corresponding to a portion of the amount for the purchase transaction by the processor," while Burke specifically and unequivocally mentions that it is only the merchant component that sends a rebate check to the nonprofit component." One skilled in the art would readily realize that this requires major differences in the system design regarding data transmission, data security, fund transmission and dispensing, and computer network infrastructure.

Second, Burke does not teach or suggest "verifying the received funds against the received amount for the purchase transaction by the processor." Rather, Burke's clearinghouse component merely reports all transaction data. There is no teaching or suggestion in Burke about verifying the received funds against the received amount for the purchase transaction by the clearinghouse component.

Third, with respect to the limitation of "sending a portion of the funds received by the processor to the aggregator," Burke does not disclose such limitation. As explained above, Burke does not receive or send any funds. Additionally, there is no suggestion in Burke about sending a portion of the funds received.

Fourth, with respect to the limitation of "storing the enrollment information of the plurality of aggregators, the participant, and the plurality of merchants in a database, wherein no merchant is yet selected by the participant," Burke does not teach or suggest such limitation.

The Examiner again interpret the novel limitation of "wherein no merchant is yet selected by the participant" as a "design preference which does not receive any patentable weight" citing to *MPEP 2144.04(b) - B. Duplication of Parts*; and the *In re Harza* case. (Office action, page 14, second paragraph.). Applicant respectfully disagrees. Again, as explained above, the facts of the present application are NOT sufficiently similar to those in *In re Harza* case. More importantly, one skilled in the art would readily realize that having "the supporter to pre-select the merchant during the enrollment, after completing step 120 of the enrolment process of FIG. 3" is not the same as "no merchant is yet selected by the participant." Rather, what Burke is teaching is exactly the opposite of the claimed limitation. Therefore, Burke teaches away from "no merchant is yet selected by the participant."

Additionally, this added limitation is NOT merely a "design preference," because the limitation removes a substantial limitation and inflexibility of shopping at a desired shop by a shopper from a merchant who is already enrolled in the program but not selected by the shopper at the time of enrollment. This requires a change of design for the system which needs to provide the capability of "storing the enrollment information of the plurality of merchants in a database," regardless of any specific participant (shopper). However, in Burke, the supporter (shopper) has to pre-select the merchant during the enrollment, after completing step 120 of the enrolment process of FIG. 3. That is, "the computer CC, in step 125 has the supporter indicate the stores that they intend to use their transaction card." (Paragraph [0029], underlining added.).

Fifth, with respect to the limitation of "providing the participant identification code to any of the plurality of merchants, when the participant initiates a purchase transaction with said any of the plurality of merchants," Burke does not disclose such limitation. Instead, as explained above, the supporter (shopper) of Burke has to pre-select the merchant during the enrollment and therefore can NOT provide "the participant identification code to any of the plurality of merchants, when the participant initiates a purchase transaction with said any of the plurality of merchants."

As a result, for at least any one of the above **five reasons**, amended independent claims 1 and 38 are not anticipated by Burke and therefore are allowable over the cited references.

New dependent claim 48 includes the limitations of "storing a contract rebate percentage for each of the plurality of merchants," "receiving transaction data and financial information by the processor from the merchant," and "validating the received financial information and validating the received funds against the stored contract rebate percentage for the merchant.

The remaining dependent claims 2-21 and the withdrawn dependent claims 39-45 are dependent from allowable independent claims 1 and 38, respectively and therefore include all the limitations of respective independent claims 1 and 38 and additional limitations therein. Accordingly, these claims are also allowable over the cited references, as being dependent from an allowable independent claim and for the additional limitations they include therein.

In view of the foregoing amendments and remarks, it is respectfully submitted that this application is now in condition for allowance, and accordingly, reconsideration and allowance are respectfully requested.

Respectfully submitted,
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